

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of:

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METRO-NORTH RAILROAD TRAIN

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DERAILMENT, DECEMBER 1, 2013

* Docket No.: DCA-14-MR-002

BRONX, NEW YORK

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Interview of: MICHAEL HERMANN

Metro-North Offices
 White Plains, New York

Monday,
 December 2, 2013

The above-captioned matter convened, pursuant to notice.

BEFORE: DAVID BUCHER
 Accident Investigator

APPEARANCES:

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Operations Group Chairman
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RICK NARVELL, Human Performance Investigator
MARY PAT McKAY, Chief Medical Officer
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BRUCE PARKIN, Safety Inspector
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MICHAEL SCIORTINO, General Road Foreman of Engines
JASON MINAROVICH, Assistant Road Foreman of Engines
RICHARD FERRARA, Road Foreman
Metro-North Railroad

KIRK THOMAS, Vice General Chairman
Association of Commuter Rail Employees (ACRE)

ANTHONY BOTTALICO, General Chairman
MARTHA GRANT, Local Chairperson, Hudson Division
DENNIS RICHARDSON, Hearing Officer
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JOHN POTTHAST, Vice General Chairman
ACRE Local 9

DAVID HESS
Public Transportation Safety Board
New York State DOT

JOHN RIZZITELLI, Detective Sergeant
FRANK LAURIE, Detective
MTA Police Department

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Metro-North Railroad

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I N T E R V I E W

(1:44 p.m.)

MR. BUCHER: -- Operations Group Chairman for the National Transportation Safety Board. This is the interview of Mr. Mike Hermann. It is December 2nd, 2013. The time is 1:44. We are in White Plains New York at the Metro-North office building.

Mike, if you would spell your first and last name, please?

MR. HERMANN: Sure. That's Michael Hermann, M-i-c-h-a-e-l. Hermann is H-e-r-m-a-n-n.

MR. BUCHER: We're going to introduce the people in the room. To my right?

MR. BOTTALICO: Anthony Bottalico, General Chairman, ACRE Local 1.

MR. BUCHER: Could you spell it?

MR. BOTTALICO: Anthony, A-n-t-h-o-n-y. Bottalico, B-o-t-t-a-l-i-c-o.

MR. THOMAS: Kirk Thomas, Vice General Chairman, ACRE. K-i-r-k, T-h-o-m-a-s.

MR. SCIORTINO: Mike Sciortino, General Road Foreman of Engines, Metro-North Railroad. M-i-c-h-a-e-l, S-c-i-o-r-t-i-n-o.

MR. FERRARA: Rich Ferrara, Road Foreman, Metro-North. R-i-c-h-a-r-d, F-e-r-r-a-r-a.

MR. POTTHAST: John Potthast, Vice General Chairman,

1 ACRE 9, for the engineers. J-o-h-n, P-o-t-t-h-a-s-t.

2 MR. HESS: David Hess, Public Transportation Safety
3 Board, New York State DOT. D-a-v-i-d, H-e-s-s.

4 MR. NARVELL: Rick Narvell. It's N like in Nancy, a-r-
5 v-e-l-l. I'm a human performance investigator for the NTSB,
6 Washington, D.C.

7 MR. PARKIN: Bruce Parkin, B-r-u-c-e, P-a-r-k-i-n, OP,
8 Operating Practices Safety Inspector, Region 1, with the Federal
9 Railroad Administration.

10 MR. RICHARDSON: Dennis Richardson, ACRE Local 1 Hearing
11 Officer. D-e-n-n-i-s, R-i-c-h-a-r-d-s-o-n.

12 MR. BUCHER: Okay. And the people in the back, if you
13 could just step up and introduce yourselves for the record,
14 please?

15 MR. RAYE: Jessie Raye from Metro-North legal
16 department.

17 MR. RIZZITELLI: John Rizzitelli, Detective Sergeant MTA
18 Police.

19 MR. LAURIE: Detective Frank Laurie, MTA Police
20 Department.

21 MR. PALMER: Thomas Palmer, Assistant Road Foreman,
22 Hudson Division, Metro-North.

23 MR. MINAROVICH: Jason Minarovich, Assistant Road
24 Foreman of Engines, Metro-North Railroad.

25 MS. MCKAY: Mary Pat McKay, Chief Medical Officer for

1 the NTSB.

2 MS. GRANT: Martha Grant, Local Chairperson, Hudson
3 Division, ACRE 1.

4 MR. BUCHER: Okay. Dave Bucher, again. This interview
5 is in -- to address the accident that occurred at the Spuyten
6 Duyvil Station on December 1. NTSB Accident Number is
7 DCA-14-MR-002.

8 INTERVIEW OF MICHAEL HERMANN

9 BY MR. BUCHER:

10 Q. Mr. Hermann, if you would please, would you go back to
11 yesterday --

12 A. Do you want me to start there with my brief history --

13 Q. -- when you started your day, when you got up.

14 A. -- or want my brief history with the company first?

15 Q. Yeah, give me your -- yeah.

16 A. Okay. I hired out in 1997, January of 1997, as a
17 conductor. I didn't come from a previous craft. I hired on from
18 the outside. I worked as a conductor for over 7 years. I then
19 had applied for and was given a position in operation management
20 with Metro-North Railroad. I did that for close to 7½ years and
21 now I've been back in -- and then I had left that and come back to
22 my uniform as conductor, and I've been back as conductor now for
23 -- I think it's been about 2 years and 8 months that I left
24 operations. So that's my brief history with Metro-North.

25 Okay. Shall I --

1 Q. Okay.

2 A. -- start with my morning?

3 Q. Yep, start with your morning.

4 A. Okay. I have a 5:05 report time for my job. I usually
5 get up at 3:00 in the morning. I give myself ample time to have,
6 you know, 1½, 2 cups of coffee, take a shower, shave, and drive to
7 work without rushing. Normally, I'm in bed by 8:00 in the
8 evening. Seven hours of sleep is more than enough that I need for
9 the day.

10 I report to work. I check all the necessary
11 documentation, as we normally do every day, to see if there's any
12 sort of operational changes that have taken place since the day
13 before. I got a 5:05 report. I think yesterday I was there
14 anywhere from 5:00 to 5:05. I was on time for my report and my
15 engineer was just moments behind me at the report.

16 You know, upon arriving, I do things like I upload my
17 cash reports with the electronic device and then I perform a job
18 safety briefing with my engineer and we determine any changes that
19 have taken place, but particularly off the DTOBO, which is our
20 day-to-day operational changes that we have for speed
21 restrictions, stop signs, weather restrictions and so forth. And
22 so we had conducted that.

23 Then the next thing I do is I contact our mechanical
24 department in Poughkeepsie and I ascertain that they are clear of
25 the equipment and the specific track the train is on so we're all

1 on the same page. And after that's done, then I contact our
2 central control, District D, to clear that it's okay to pull the
3 equipment down to the platform and to leave on time.

4 At that time, walking out after we perform my job safety
5 briefing, as part of that we determine that -- I always convey
6 that we're going to be working with X amount of cars, and 8808 we
7 always use five cars and it's more than ample spacing for our
8 passenger load that time of the morning.

9 Did our brake test. You know, we did our leakage test.
10 We did our on and off. We pulled down to the platform, closed the
11 doors, left at our scheduled departure time, which is 5:54.
12 Everything was running on time. No problems. Routine. And
13 that's pretty much it.

14 Every station stop down no delays, no problems, no
15 passenger incidences whatsoever. And after Tarrytown, which is
16 our last revenue stop before running express to Harlem, 125th
17 Street and Grand Central Terminal, my assistant, Maria Herbert, we
18 sweep toward each other after Ossining and then, like I said, once
19 again we're going to express after Tarrytown so we wait till after
20 Tarrytown and then we sweep away from each other. Maria will
21 sweep toward the south end of the train, and she puts herself in
22 that position because she needs to be on the head end to call out
23 signals after 125th Street, and I sweep up to the north end
24 because I need to be positioned on the opposing end of the
25 consist. If we ever need a backup move in the terminal, that's

1 where I'm required to be by Metro-North rules. And so that's what
2 we had done.

3 No exceptions to any of the operations so far. I was
4 sitting in the deadhead. I was changing the train numbers on my
5 TIMS for the next train. I was sorting out my cash. I was
6 loading up my seat checks ready for the next train so I was ready
7 to go when we got down to New York.

8 I guess approximately 20 minutes later, thereabouts, I
9 was sitting in the deadhead and I heard a little bit of like a
10 metallic rattling, which is not really uncommon for trains because
11 you always have the running gear. When you're going through a bit
12 of a curve you might hear the wheels chatter or something, like a
13 running gear suspension chatter, but it just sounded a little bit
14 odd. And the next thing I know my car had kicked and I was thrown
15 from the fourth seat or across the coach up to the ceiling.

16 It's kind of fuzzy at that point. I dropped down. I
17 went back up again and I slammed into the ceiling and then I
18 slammed down into the floor, praying at that point in time that we
19 were going to stop and we did. I realized at that point we had to
20 have derailed. I've never done it before, but I think that was --
21 you know, it was obvious that something was wrong. By the time I
22 finished I was on all fours just trying to take personal
23 inventory. I don't know if anything is hanging off of me or
24 broken or whatever the case might be.

25 Somebody from the deadhead car that I was in had come up

1 to me and said, "Are you okay?" And I said, "I believe I'm okay."
2 I said, "Just give me a few moments and let me try to compose
3 myself," because I was -- I had a lot of cobwebs. And after that
4 he had went back because I believe we had somebody injured in the
5 deadhead, which I had come to find out later. I got up and I
6 realized that the -- I was in -- I'm sorry -- I was in the sixth
7 car from the south end. We had seven cars and an engine. I
8 realized that between the sixth and the fifth car, I guess the
9 knuckles had separated or stretched from the buffer plates and I
10 realized that these cars were not on the track so we must have
11 derailed.

12 Just to step back for a second, I just -- I want to make
13 the point that, well, first of all, I haven't slept hardly at all
14 in the last 34 hours so I'm trying to keep things as clear as I
15 possibly can. Yesterday, I had my bell rung. I had a big knot on
16 my head. I got pretty bruised up. Thank God I didn't break
17 anything.

18 That first half an hour that I was out there in the
19 field and on the ground, I kind of acted on instinct. I remember
20 pretty much what I had done. Sequentially, I might not be
21 accurate, so as we go further, I say I spoke to the RTC, he got
22 back to me about it. We may not be properly in sequential
23 accuracy. I'm sure everything's on tape so you could all piece
24 that together. Just so if there's any indiscrepancies [sic] it's
25 nothing that's done intentional.

1 When I looked out the car opening there, I jumped down
2 on the ballast and I think that was the first time I contacted
3 Central District C and I think I had said something to nature of,
4 "Metro-North 8808 to Central District C. I believe we have a
5 derailment. We need medical assistance." It was something along
6 those lines and I didn't -- I had no idea, because I had not yet
7 ascertained the degree of the damage because the way the consist
8 was laid in the curve, I couldn't see around the entire thing, I
9 had no idea of the extent of the damage.

10 I believe a few moments later he had gotten back to me
11 and said, "Okay, Mike" -- and I said we need medical assistance,
12 and I believe a few moments later he got back to me and said that,
13 okay, we de-energized all the rails, you know, all three rails or
14 all three tracks, I believe he said, are de-energized. And I said
15 okay. And I believe he also responded -- at one point in time he
16 says, "Well, how many ambulance do you need?" And by that time I
17 was able to see the entire consist and everything was laid over
18 and all over the place and I said, "Send as many as you have,"
19 because I knew that this wasn't going to be something that was
20 going to be small.

21 I had Chris Kelly, who was my assistant conductor who
22 boards at Croton-Harmon. I normally tell Chris to go sit down.
23 He doesn't have to worry about the revenue because we only have
24 two revenue stops at that point in time and there's not going to
25 be much he can do, so I just tell him to go sit down and don't

1 worry about it because Maria and I just pick up after two stops
2 anyway.

3 And Chris was okay and he jumped down with me. He had
4 gotten off the train somehow or another and we were walking -- I
5 mean, quite honestly, we were just overwhelmed. You don't even
6 know where to start and you just have two people there and you've
7 got seven cars all over the place. And we saw a woman, I believe
8 at that point, we saw a woman in the distance. At one point --
9 I'm sorry, at one point prior to that, too, I also gave my three
10 "emergency, emergency, emergency" and I believe I said Marble Hill
11 somewhere. Sequentially, I kind of -- it's kind of gray because,
12 guys, I was really -- my head was banged.

13 But we had seen a woman, I think it was the third or
14 fourth car from the south end that was trying to unload some of
15 the passengers and the car, I believe, was either laying on its
16 side or severely listing, and trying to get some of the passengers
17 off and I believe I saw a passenger get out. So Chris Kelly and I
18 went over there as fast as we possibly could and we assisted in
19 getting passengers off that were able to walk to the end of the
20 car.

21 Bear in mind the cars are dark. We can't see.
22 Unfortunately, we heard people screaming in there and we were
23 limited to what we can do. I was injured. I mean, I was -- I
24 didn't know if I had any fractures in my shoulder or my hip
25 because I was really hurting so I couldn't climb up on the

1 knuckle, which was probably 4½ feet tall. So I don't remember if
2 I asked Chris if he could climb up or if he just took it upon
3 himself to climb up and help assist passengers out.

4 The woman that was there had told me that there was a
5 passenger that was tucked under a seat and that she thought she
6 was DOA. And I said, "Are you a doctor?" And she says, "No, I'm
7 a veterinarian." And I said, "Okay, well, thank you very much for
8 helping us." And I think we got about five or six people out and
9 there is a -- I guess a switching station is right over there
10 where CP-12 is. There's a brick house and there's a pavement
11 area. And we were sending people over there and staging them in
12 that one area so when emergency services would respond we could
13 say this is everybody up to now; this is where everybody is.

14 And I think we had probably gotten about six passengers
15 out and then I saw the first emergency responders coming in over
16 at Spuyten Duyvil parking lot area. So I said to Chris, I said,
17 "Chris, just" -- to the best of my recollection I said, I said,
18 "Chris, keep on with this. I have to go meet the emergency
19 responders." I wanted to get them apprised as to what's been done
20 so far, which is primarily I wanted to let them know that all the
21 third rail had been de-energized. I don't recollect if it was
22 FDNY or NYPD. I don't think it was MTA police was the first
23 responder, and I could be wrong. Don't hold that against me.

24 And when they first approached the property I said, "The
25 third rail has been de-energized," I said, "but please treat it as

1 live because you could have a bridging incident or anything else
2 where you might still inadvertently get electrocuted." And they
3 were asking me questions on what had happened and I believe I said
4 to the first responders I had taken a car count, we got seven
5 cars, you know, because we were -- I was even concerned whether or
6 not something might have torpedoed into the river, but we did have
7 our seven cars and an engine there.

8 And after that more and more emergency responders had
9 come and then they started taking over the scene. And then Chris
10 and I gathered together and then we were actually asked to move
11 over to the Track 1 side just to kind of clear the area and let,
12 you know, NYPD and the fire department take control of the scene.
13 And that's what they did.

14 After that, probably that was about a 30-minute process,
15 I'm guessing. I really lost track of time. We went back to the
16 closed car that we were in to retrieve our bags. I went into my
17 bag and I pulled out my phone and then I called my wife and I let
18 my wife know. I said -- you know, I woke her up. I said, "If you
19 turn on the news and there's a derailed train," I said, "that was
20 my train but I'm not hurt." Because I know when she was going to
21 put the news on first thing in the morning that's the first thing
22 she would have thought, if that was my train. And of course, you
23 know, on the other side of it, she was very panicked and made her
24 way down.

25 Chris and I, we stayed by the right-of-way probably

1 another 40 minutes, I'm guessing, maybe another 45 minutes. We
2 were told to keep the area clear only because we would be in
3 anybody's way that could actually do something. There was a
4 police officer that was standing next to me and he explained to me
5 that he was assigned to me, that he was to stay with me. And
6 after about 45 minutes I think they brought us up to their staging
7 area, which was the overpass at Spuyten Duyvil and I believe just
8 outside there, perhaps in the parking lot. We went up the stairs.
9 I wasn't really sure of the whole scope of that area there.

10 We were evaluated. My engineer was evaluated. William
11 Rockefeller was already up there. He was standing. Chris Kelly
12 was up there. He was standing. I was missing my other assistant
13 conductor, Maria Delemi (ph.). I had gotten word from one of the
14 emergency responders -- I don't know if it was NYPD or the fire
15 department -- that she was injured but she was going to live,
16 because that was my first concern. I was asking everybody if they
17 knew what might have happened to my other assistant conductor.
18 And so obviously I was relieved with that.

19 They did a quick evaluation of our medical condition.
20 They asked me what was wrong with me. I mean, I had a big lump on
21 the right rear side of my head, my shoulder was in a lot of pain,
22 my hip to my buttocks to the center of my back, the small of my
23 back, was in a lot of pain and I felt -- I still felt a little bit
24 dizzy after all of that time. They wanted to bring me in for
25 evaluation to the hospital.

1 I believe William Rockefeller didn't want to go, for
2 whatever reason I don't know. I don't think he felt he was
3 injured but I think it was determined they found a rip in his
4 shirt and he realized it was the smart thing to do. We tried to
5 talk to him that he should get himself evaluated.

6 Then from there the police officer that was assigned to
7 me, my local chairman, Martha, from the Hudson Division, we walked
8 up this hill that seemed to go forever and we loaded into an
9 ambulance, and they had taken us to Allen Pavilion, I believe it
10 was, which is Presbyterian or a satellite of Presbyterian
11 Hospital. And that was it.

12 And I think that's about the whole story from the time I
13 got up until the time I was admitted to the hospital. I'm not
14 going to say does anybody have any questions because I'd be taking
15 your job. Right?

16 Q. True. Okay. What we'll do is go around the table.

17 A. Okay.

18 Q. I have a couple here. This is Dave Bucher and my first
19 question is on the deadhead car, which you said was the sixth --

20 A. Sixth and seventh.

21 Q. Sixth and seventh?

22 A. Yes.

23 Q. Okay. And I understand there were additional deadhead
24 employees. Were they in the sixth or seventh?

25 A. I know of the ones that were in the sixth car. If some

1 might have boarded en route and made their way back to the seventh
2 car when I was collecting revenue elsewhere, I wouldn't know.

3 Q. Okay. All right. You don't have a count of how many --
4 you don't have an idea of how many deadhead employees were back
5 there?

6 A. In the car that we were in, taking a guesstimate, I
7 would say it probably had about six.

8 Q. Six? Okay.

9 A. Yeah. Because it does change. I may get some out of
10 Poughkeepsie that are getting off at Harmon, some that might be
11 getting on at Harmon or elsewhere going to New York. So it
12 changes.

13 Q. Okay. Okay, I guess my second question is about the
14 emergency response and how long do you think it took for the
15 emergency response people to get there?

16 A. Like I said, I was kind of at a loss for real time but I
17 was -- I would say probably no more than 15 minutes -- I think it
18 was very good -- before those first responders got there.

19 MR. BUCHER: Okay. I'm going to pass it off to my right
20 and we can come back again.

21 MR. BOTTALICO: Yeah, I just have one question at this
22 time, Mike.

23 MR. BUCHER: Your name.

24 MR. BOTTALICO: Anthony Bottalico, General Chairman,
25 ACRE 1.

1 BY MR. BOTTALICO:

2 Q. Mike, Maria the assistant conductor --

3 A. Um-hum.

4 Q. -- her married name is Herbert, right?

5 A. I believe so, yeah.

6 Q. H-e-r-b-e-r-t. Just for the record.

7 A. Okay.

8 MR. BOTTALICO: She's married now and her name is

9 Herbert. That's all I have at this particular time.

10 MR. THOMAS: Kirk Thomas. No questions.

11 MR. SCIORTINO: Mike Sciortino.

12 MR. BUCHER: You just have to speak up. That's all.

13 MR. SCIORTINO: Yes.

14 BY MR. SCIORTINO:

15 Q. Mike at any point prior to the incident occurring, did
16 you feel any train brake coming on at all, to your knowledge
17 before it happened?

18 A. No, I didn't feel -- I didn't take any exception to
19 anything. No, I didn't feel any brake or no heavy breaking. If
20 there was braking, it might have been something that wasn't
21 abrupt.

22 Q. At any of the -- coming into any of the stations,
23 revenue station stops, did you take any exception to the way the
24 train was braking, in your opinion?

25 A. No, not at all. Nothing out of the ordinary and, you

1 know, Mr. Rockefeller is a very good engineer. With the few weeks
2 that I've had to work with him, he's been an excellent engineer.

3 MR. SCIORTINO: No more questions.

4 MR. FERRARA: I have no questions.

5 MR. POTTHAST: John Potthast, ACRE 9.

6 BY MR. POTTHAST:

7 Q. Mike, just to clarify, you said earlier that you had a
8 safety briefing with Mr. Rockefeller at Poughkeepsie prior to your
9 departure.

10 A. Correct.

11 Q. Do you recollect speaking about a temporary speed
12 restriction south of Yonkers?

13 A. Yes. We discussed the specific speed restriction there
14 that's between Yonkers and Riverdale, Track 2, and it was 60 miles
15 an hour.

16 Q. Do you recollect Mr. -- or the train braking in that
17 general area?

18 A. I'm not -- I did not take notice. I did not take
19 notice. Honestly, I wouldn't even know if we were running down
20 Track 2 between Riverdale and Yonkers. I probably did not even
21 take the mind to look out the window because I really had no call
22 to look out the window and see if we were running down 2 or 1.
23 So, yeah, so I wouldn't even know if we -- that's why -- I
24 wouldn't be looking for something like that, honestly.

25 Q. Okay. And I think you mentioned earlier, do you also

1 recollect the running brake test on your initial departure from
2 Poughkeepsie?

3 A. Yes.

4 Q. Okay. No further questions.

5 A. Okay.

6 MR. HESS: No further questions.

7 MR. NARVELL: Rick Narvell with the NTSB, and, yes, I
8 have several questions. Maybe more than several questions, Mike.

9 MR. HERMANN: By all means.

10 BY MR. NARVELL:

11 Q. I want to ask a couple questions, and thank you for your
12 accounting. I thought that was a very good recollection.

13 A. Okay. Thank you.

14 Q. A little disclaimer, it's fine, you know, that's okay if
15 you can't recall everything. That's okay. In a minute here, I'm
16 going to switch some gears and I want to ask you what I'll call
17 some background questions and I'm going to give you just an idea
18 of what they are. I want to come back to some things that
19 happened yesterday, as well.

20 A. Okay.

21 Q. So in a minute I'm going to ask you some questions about
22 any possible distractions, some questions about your -- these are
23 routine questions, by the way.

24 A. That's fine.

25 Q. Questions about your health.

1 A. Okay.

2 Q. Some questions about workload and those kinds of
3 questions, so -- and including, and FRA and I are going to talk
4 with you offline about this. We're trying to get a work-rest
5 history for you for the 4 days prior to the accident. So that
6 would be back from like Friday up to yesterday, basically what
7 time you went to bed, what time you got up, if you can recall.

8 A. Okay. Four days, so you want to go back to Thursday?
9 You want to go back to --

10 Q. We'll go back to Thursday, and if you don't know that's
11 okay.

12 A. Okay. Well, Thursday and Fridays are my relief days.

13 Q. Okay, so --

14 A. So, yeah, I end up putzing around the house. Did a
15 little --

16 Q. Do you want to do this still later, get this offline?

17 MR. PARKIN: If he just wants to give it now, that's
18 fine, yeah.

19 BY MR. NARVELL:

20 Q. Sure. Go ahead. If you can recall what time you got up
21 and went to bed on Thursday and Friday?

22 MR. PARKIN: Thursday and Friday are relief days?:

23 MR. HERMANN: Yeah, Thursday and Friday are my relief
24 days. Saturday's my Monday for -- well, for my run purpose. I
25 didn't do -- I'm trying to think what I did this weekend.

1 BY MR. NARVELL:

2 Q. And especially if you can recall what time you went to
3 bed and you got up on those days.

4 A. Well, on my relief days I generally -- I try to stay up
5 a little bit later because -- with the attempt of trying not to
6 get up at 3:00 because I'm so routine to doing it. It never seems
7 to manage, though. So, you know, I usually wind up going to bed
8 about 8:00 and watching TV and falling asleep by 9.

9 Q. Okay.

10 A. I generally get up at 4:00 on my days off anyway. My
11 daughter gets up at 6 to get prepared for school for a 6:30 bus.
12 So I get up and -- I can't really break from the routine,
13 unfortunately, because I do it 5 days a week. So if I shift an
14 hour off of it, so -- yeah, nothing strenuous. No late nights.
15 Nothing -- you know, probably watched a little TV with the family
16 after dinner, turned in almost my usual time, maybe an hour later.

17 Friday nights, you know, I probably turn in about 8:30
18 or so, you know, anywhere between 8, 8:30. I usually lay in bed
19 and watch TV for a half an hour because it just puts me to sleep.
20 And if I get 6 hours sleep, you know, that's more than enough.
21 That's adequate for me. You know, that gets me through the day.

22 Q. So that would be at 03 on Saturday, then?

23 A. 03 on Saturday. Correct, yes.

24 Q. And then --

25 A. And then I have a 5:05 report. So, like I said, I get

1 up in the morning, I have coffee. I set up my pot before, the
2 night before and I got coffee waiting for me. I have a couple of
3 cups of coffee in the morning, try to catch some news, you know.

4 Q. And then maybe do you remember what time you went to bed
5 Saturday night, Mike?

6 A. Saturday night?

7 Q. Um-hum. Would that be still about the 8?

8 A. About -- yeah, about the same time, yeah. I'm pretty
9 consistent. Around 8:00. I can't really -- by 8:00 I really have
10 to turn in.

11 Q. Gotcha. And then now we're up to yesterday, the day of
12 the incident, would be up again at 03?.

13 A. Correct. Um-hum.

14 Q. Okay. So just real quick -- thank you. That's good.

15 A. All right.

16 Q. Thursday in bed by about 9 p.m., up at 4. Friday in bed
17 by about 8, 8:30, up at 4.

18 A. Um-hum. Thereabouts.

19 Q. And then back on your schedule on Saturday?

20 A. Yes.

21 Q. Okay, great. Very good.

22 Anything in the last, I'll say, 6 months or a year that
23 might be a basis for a distraction or preoccupation for you? Let
24 me give you a couple of examples since I've --

25 A. Okay.

1 Q. -- I've been doing this for over 20 years. These are
2 just examples.

3 A. All right.

4 Q. Maybe a recent death in the family, bad financial news,
5 bad medical news, something that may have been a distraction or
6 preoccupation?

7 A. No, not really, thank God.

8 Q. Okay. Good. A couple questions about your health. How
9 would you characterize your health?

10 A. Pretty good.

11 Q. Okay. Are you required to take a physical for Metro-
12 North?

13 A. Yes, I am.

14 Q. Do you know when your last physical was?

15 A. I believe within 2 years.

16 Q. And do you have a personal -- get a personal physical,
17 too, from a personal physician?

18 A. Yes, I do. And actually I'm scheduled in January with
19 my personal physician.

20 Q. So the last personal one would have been what? Do you
21 remember?

22 A. I think he likes to do it annually, but unfortunately
23 he's got to book like 6 months out and my days off changed and I
24 had to lose that --

25 Q. Was it this year?

1 A. -- that time slot. Yeah, actually I think I was
2 supposed to go in October, which would have been approximately --
3 over a year, actually, but then I had to push it back to January
4 because that was his next open appointment. So my personal
5 doctor, yeah, it's probably been -- it will be almost 2 years,
6 probably, by the time I go in January.

7 Q. Okay. So it would have been sometime in late '12?

8 A. Thereabouts, yeah.

9 Q. Okay. All right. Vision, do you know what your rating
10 or vision is? 20/20, 20/30?

11 A. No, I don't really know. I wear reading glasses. I do
12 have seeing glasses.

13 Q. Seeing glasses?

14 A. Yeah, regular seeing glasses. My last Metro-North
15 physical, though, I passed the eye exam without them so I don't
16 wear them. I don't wear them for driving or anything else. So --

17 Q. So just reading glasses?

18 A. So just reading glasses, pretty much, yeah.

19 Q. Same question on hearing, any problems with your
20 hearing?

21 A. No. No.

22 Q. Is an audiology report part of that physical?

23 A. Yes, it is and I passed.

24 Q. No problems?

25 A. Yeah, I was told I had a little bit of loss in my left

1 ear but everything was acceptable levels, yeah.

2 Q. Okay. Any use of medications?

3 A. I am on two routine medications. I take simvastatin,
4 which is a -- it's a statin drug because my cholesterol is
5 slightly elevated, and I've been on that I think since -- for like
6 the last 7 years.

7 Q. All right.

8 A. Okay. I take a proton pump inhibitor or essentially a
9 protonics or essentially a Tagamet, something that reduces the
10 acid in your stomach.

11 Q. Okay.

12 A. And the other thing that I had taken was, and this was
13 Saturday night, I think it's meloxicam, which is an anti-
14 inflammatory drug.

15 Q. Okay.

16 A. Several weeks ago I went to my podiatrist because I've
17 been having foot -- I'm sorry -- pain in my left foot. And he had
18 taken x-rays of it and he had put a cortisone shot in it and the
19 cortisone shot didn't seem to help that and a foot brace, and I
20 was still getting pain so I went back to him and he gave me
21 meloxicam, which is one pill per day. He said to take this and
22 it's an anti-inflammatory. It's not a narcotic, but I'm sure
23 you're going to look into it. And that actually helped my foot.
24 I had taken that for about 2 weeks straight and the pain had gone
25 away in my foot. I had stopped taking it for about a week and

1 then my foot pain started flaring up a little bit on Saturday, so
2 Saturday evening I had taken another one in preparation for Sunday
3 going to work. All right. It's one a day. It was prescribed by
4 my podiatrist. All I know is it's -- you know, it has no ill-
5 effect on you. It's not a narcotic in any way.

6 Q. Okay. Thank you.

7 A. Okay.

8 Q. A couple more on these. I'm just trying to get my notes
9 right here. So it's meloxicam.

10 A. Meloxicam.

11 Q. One a day?

12 A. Yeah.

13 Q. Do you know the doses by any chance?

14 A. Not -- no, I don't. I'm sorry.

15 Q. That's okay. Number two is a statin. Do you know the
16 name of it by any chance?

17 A. Simvastatin.

18 Q. Simva- --

19 A. Simvastatin. I think it's S-y-m-v- --

20 Q. I'll find it.

21 A. Anybody else here got high cholesterol? Come on, help
22 me out. Probably half the table's got it.

23 Q. That's for about the last 7 years, Mike?

24 A. Yeah, I was about 45, I think, when my doctor found it.
25 He said my cholesterol was ever so slightly elevated and he just

26

1 -- I told him I didn't want to be on drugs at that age, you know,
2 for the rest of my life and he made good sense out of it. He said
3 people get heart attacks at 65 because they didn't take their
4 medicines at 45. So he was right.

5 Q. And you take how much of that per day? Do you know the
6 dosage?

7 A. The simvastatin, I think it's 40 mg a day.

8 Q. Okay, great. And last but not least is you said
9 Tagamet.

10 A. No it's pantopropozole. It's spelled -- I'll give you a
11 general spelling. I think it's p-a-n-t-o-p-a-z-o-l-e, I think it
12 is. Yeah, pantopropozole.

13 Q. And again, how long and dosage and --

14 A. I believe that's 20 mls, yeah, once a day, both taken at
15 bedtime.

16 Q. Okay. And you took all of those per --

17 A. Yeah, I take them 7 days a week, yeah.

18 Q. -- per prescribed. Okay.

19 A. Well, the meloxicam, like I said, that was just
20 temporary. I -- actually, I didn't take it for, I think, even a
21 week prior to Saturday.

22 Q. Okay.

23 A. But my foot's -- I just wanted to see if my foot pain
24 would stay away, but it was reoccurring so I took one on Saturday
25 and -- so that was -- and I haven't taken once since either, so --

1 Q. Okay. Great.

2 A. Yeah, and that was -- to the best of my knowledge, that
3 wasn't going to be a permanent thing. I think he was just trying
4 to identify whether or not it was a bursitis in my foot.

5 Q. Is there a reporting requirement for medication to
6 Metro-North by employees?

7 A. Is there a reporting requirement? Yeah, I believe there
8 is.

9 Q. Okay. Do you know if these fit that or do you know --

10 A. I'm almost certain the cholesterol and the
11 pantopropozole for the acid, I believe they're not on the list
12 because I had checked those.

13 Q. Okay.

14 A. The meloxicam, I did not check into it. The first thing
15 I had asked the -- my doctor, I said is it a narcotic of any sort,
16 and he said no. And I said will it impair me in any sort of a
17 way, and he goes no. He was aware of the work I do.

18 Q. That was my next question. He knows you're a conductor?

19 A. Yeah, he knew I was a conductor and I was on my feet all
20 the time and, you know, I've got heavy footwear on which might
21 have played an effect on my foot pain. So he was well aware of
22 what I do for a living and he said, no, this shouldn't have any
23 bad effects on you whatsoever.

24 Q. Okay. So just for the record, no reporting of any of
25 these meds to the railroad?

1 A. Well, I didn't -- the railroad's aware of it because --

2 Q. Okay.

3 A. -- when I go for my physicals they ask you what meds
4 you're on.

5 Q. Okay.

6 A. So they've got the, you know, the statin drug and the
7 proton inhibitor drug, proton pump inhibitor. Yeah.

8 Q. Okay, good. Again, standard question here, any
9 ingestion of alcohol or illegal drugs prior to the accident?

10 A. No.

11 Q. Okay. All right. Can you give us a sense when you
12 reported for duty up to the incident of the workload? In other
13 words, was it a normal day, was it high workload day or low day?

14 A. Actually it seemed a little bit less than normal, and I
15 don't know what would account for that -- it's a holiday weekend
16 -- for whatever reason. Sometimes you overthink things. But it
17 would seem a little bit lighter than normal for our Sunday train,
18 our 5:54 out of Poughkeepsie.

19 Q. Okay. Thank you. So Sundays are they usually a --

20 A. Sundays are generally a little bit lighter than
21 Saturdays. I think there's a lot -- there's a little less
22 recreational traveling. You know, most people are apt to go out
23 down to the city on a Saturday than a Sunday. I think most people
24 are prone to stay home if they can.

25 Q. Um-hum.

1 A. I get quite a few commuters on that early train, you
2 know, lay people, nurses. You know, I guess perhaps I shouldn't
3 use the term blue collar workers, not that it's a bad thing. But
4 that -- I find a lot of that on that 5:54 out of Poughkeepsie.

5 Q. Okay. Good.

6 A. Yeah.

7 Q. So a less than busy day, not too bad?

8 A. Yeah. No. Yeah, certainly manageable.

9 Q. Okay.

10 A. Certainly manageable.

11 Q. Any problems with your equipment up to and including the
12 incident; radios, any equipment?

13 A. No. No exceptions. Nothing out of the ordinary.

14 Q. Problems with noise, vibration, excessive temperatures,
15 anything along those lines?

16 A. No.

17 Q. All right. After the accident were you taken in for any
18 drug and alcohol testing?

19 A. The day of the accident?

20 Q. Yes.

21 A. Yes. At the hospital I had the FRA urine and blood and
22 breathalyzer.

23 Q. All three?

24 A. Yes.

25 Q. And do you know about what time that would have been?

1 A. I'm going to say anywhere between 12 and 1:30. I know
2 that's kind of broad.

3 Q. That's okay.

4 A. Yeah.

5 Q. So between 12 and 13, or --

6 A. 1330.

7 Q. I'm slipping back to my (indiscernible)
8 Cell phones. You said you had a cell phone?

9 A. I have a cell phone. I don't -- I do not turn my cell
10 phone off, but I do not wear my cell phone. My cell phone is --
11 the ringer is turned off and it's always in my bag secured, zipper
12 closed.

13 Q. So it was stowed at the time of the incident?

14 A. It was stowed at the time. There was no texts, no phone
15 calls or anything made at all actually that day, until I went back
16 to retrieve my bag to call my wife after the incident just to let
17 her know that I was okay.

18 Q. Okay. Just a couple more here and I'll be done.

19 A. Sure.

20 Q. Do you receive any kind of emergency training for when
21 events like this happen?

22 A. Yes, we do.

23 Q. Can you just kind of give us a brief summary?

24 A. You know, it's changed over the years. You know, we
25 have -- well, most recently I think they identify it as block

1 training, and it's several facets of, you know, our Book of Rules
2 and, you know, equipment familiarity and they do emergency evac
3 training. You know, they play videos of real Metro-North
4 situations for a lot of parts, you know, where people might have
5 made mistakes with radio protocol or not conveying proper
6 information. Then they go over things with us like ramp locations
7 and how to set up a bridge plate and ramps from one equipment to
8 the other and so on and so forth.

9 You know, I'm coming up -- in January it'll be 17 for
10 me, 17 years on the railroad, so I probably at least went through
11 it about, you know, a half a dozen, eight times already, so --

12 Q. Okay. That was my next thing. But the frequency, is
13 this a requirement once a year, twice a year?

14 A. It's once a year, I believe. Right now -- and I
15 apologize. Is it every two years? I'm sorry, Tony.

16 MR. NARVELL: Just identify yourself first.

17 MR. BOTTALICO: Anthony Bottalico, General Chairman,
18 ACRE 1. I think the road foreman would be the best answer, but my
19 recollection is every 2 years. Under the new cert law,
20 certification for conductors, it's every 3 years, I believe.

21 MR. HERMANN: Okay.

22 MR. NARVELL: Okay.

23 MR. SCIORTINO: Mike Sciortino, General Road Foreman.
24 Block training is a requirement, yearly.

25 MR. NARVELL: It is annual?

1 MR. SCIORTINO: Yeah. Yeah, it's annually. They go
2 annually, and part of that is -- and then, you know, and part of
3 that is Book of Rules, evac, customer service, various facets of
4 -- they're mods within the 3-day --

5 MR. NARVELL: And it's all under the umbrella, if you
6 will, of block training? That is called --

7 MR. HERMANN: It's a 3-day training plan.

8 MR. BOTTALICO: Three-day training program.

9 MR. HERMANN: Or program, yes.

10 BY MR. NARVELL:

11 Q. Great. Very good. Was there any kind of a deadline for
12 completing this trip yesterday morning?

13 A. Is there any sort of a?

14 Q. Deadline. Is there a deadline for this trip to be
15 completed? Did you have to be at a certain time? I mean, I know
16 you make station stops, but is there a deadline?

17 A. Unless there's a complication, which there wasn't
18 yesterday -- I mean, everything ran on time. We left Tarrytown at
19 7:02 -- or 7:03. I think we were like a minute behind schedule,
20 which is not a delay at all. So everything ran smooth. We had no
21 passenger incidences, no problems, no intoxicated passengers or
22 that were problematic. Everything was just running as normal. I
23 mean, there was no problems whatsoever.

24 Q. Last area for now here, Mike, is you mentioned to us
25 that you had worked with this engineer for several weeks prior to

1 yesterday.

2 A. Um-hum.

3 Q. And that he had apparently come in right behind you
4 yesterday morning at 5:05 or whatever.

5 A. Correct. Um-hum.

6 Q. Did you take any exception to his demeanor or his
7 appearance or did he say or do anything out of the --

8 A. No. No.

9 Q. Granted that you have known him that long.

10 A. He come walking in -- if memory serves me, come walking
11 in with his usual cup of coffee.

12 Q. Okay.

13 A. You know, signed the register. I don't know if he
14 grabbed the Daily Train Operating Bulletin Orders first or he
15 signed in on the computer first, but, you know, of course, we both
16 always obtain a copy of our Daily Train Operation Bulletin Orders
17 and I always make it a point to cover what's on there that's
18 relevant to what we need to know for the day.

19 Q. Gotcha.

20 A. And even though he's worked with me for a few weeks now,
21 and we do the same thing on Saturday and Sunday, I also -- I
22 re-inform him that we're going to be working with five cars,
23 nothing out of the ordinary. You know, so five cars to start
24 with, so -- so everything just normal.

25 Q. When you departed did you have any interaction with him

1 first face to face while he was operating the train or any voice
2 -- anything on the radio?

3 A. Well, when we perform our brake test I usually walk to
4 the equipment with him. Like I said, prior to that we got
5 permission from the mechanical department that we're clear, the
6 District D --

7 Q. Right.

8 A. -- that we're okay to move the train down and leave on
9 time. I join -- I walk to the equipment with my engineer,
10 Mr. Rockefeller. We enter on the south end of the train. I open
11 the door and pop open the trap. We both climb up. He says that
12 he'll get the handbrake because he doesn't want the train to roll,
13 which is usually our MO.

14 Q. Sure.

15 A. And I tell him that's -- you know, usually I reiterate
16 at that point in time, I say, "Okay, five cars," then I walk back
17 and what he's doing in the meantime is he's charging up the
18 engine, getting the brake compressors and --

19 Q. Right.

20 A. -- tanks all up. And while he's doing that, I'm walking
21 through the seven cars and it gives me an opportunity to inspect
22 all my equipment in the interim. When I get to the north end, I
23 drop -- I open another trap. I step down. I climb up on the
24 engine. I usually just are catching the end of his leakage test,
25 which I don't need to observe, and I give him a buzz just to let

1 him know I'm there. And then, depending on how far along he is
2 with his test, he'll just do a release, I give him a buzz and then
3 he'll do a full apply, and I usually get 61 pounds pressure. You
4 know, we make sure our full pressure is there for our main
5 reservoir. I give him another buzz and then he gives me the old
6 "shave and a haircut" and I give him two and that completes our
7 road train brake test.

8 Q. Would you normally have any interaction with him on the
9 radio or in person as you were proceeding down the track?

10 A. Not unless there's an operational change or concern.

11 Q. Okay.

12 A. If I was to open up another car or --

13 Q. Right.

14 A. -- you know, I tell him, you know -- certainly not on
15 this train, but on other trains, please pull it down if you can; I
16 want to start loading up the rear a bit more, we're kind of heavy
17 on the front end, something of that nature. But generally, no.

18 Q. How about yesterday? Was there any discussion yesterday
19 once you got going?

20 A. No.

21 Q. Okay, very good.

22 A. No.

23 Q. Thank you. That's all I have for now.

24 A. Okay.

25 MR. PARKIN: Bruce Parkin, FRA.

1 BY MR. PARKIN:

2 Q. Mike, can we get your date of birth, please?

3 A. Sure. 4/25/1961.

4 Q. Okay. Michael, how many cars were open for revenue
5 after your last revenue station, which was Tarrytown, did you say?

6 A. Yes.

7 Q. Okay. How many cars did you have open?

8 A. The same as we started with, five.

9 Q. So five remained open?

10 A. Um-hum.

11 Q. So the two closest to the engine were closed off in
12 deadhead status?

13 A. Were closed off, correct.

14 Q. Approximately how many passengers were on board, either
15 approximately or do you know the exact amount, leaving Tarrytown?

16 A. I was asked the same question by -- I think twice by
17 police officers. I was guessing, and this is strictly a
18 guesstimate, anywhere from like 150 to maybe 225 passengers.

19 Q. About 150 to 225.

20 A. It's hard to determine for several reasons. One, of
21 course, we constantly have people getting on and off so it isn't
22 simply just a headcount because people are getting on. When I'm
23 working with my assistant, as long as we're working pretty much
24 the same pace, we'll generally meet in 2½ or 3 car marks. So a
25 lot of times I'm not in -- I don't get up to the head two cars

1 during a revenue train where most of our passengers are. So that
2 was just trying to take an educated guess of what we might have on
3 the train. So anywhere from 150 to 225, I would think, with the
4 5 cars.

5 Q. Thank you. And --

6 A. It might be less, if anything.

7 Q. And then from leaving Tarrytown to Spuyten Duyvil,
8 approximately how many minutes is that -- the running distance,
9 the running time?

10 A. It's probably close to 20 minutes, I would think.

11 Q. Now in that 20 minutes, did you have any interaction
12 with the engineer, whether it was by radio or did you walk up to
13 see him?

14 A. No. No. I don't know if I discussed this earlier.
15 Usually after Tarrytown I perform a final sweep with my assistant
16 conductor and we meet toward the middle. No -- I'm sorry -- after
17 Ossining, which is the second to last stop before we express, we
18 meet in the middle. And then after Tarrytown, I do a station,
19 work from the middle of the open consist. After Tarrytown we both
20 work and pick up all our seat checks in opposite directions. This
21 works out best because my assistant, Maria Herbert, knows that she
22 has to be -- by 125th Street, she needs to be in the cab because
23 she's required to call signals out through the tunnel.

24 I'm working my way to the north end of the train and
25 then I go into the deadhead and I'm usually in that sixth car

1 because Metro-North wants me there in the event -- on the north
2 end of the consist, in the event they've got to do a backup move
3 somewhere in the tunnel, there's already somebody in place that's
4 qualified to do that. So, I'm sorry, what -- I got a little
5 sidetracked on that with the question. That was --

6 Q. The question was at any time during that 20-minute
7 time frame did you have any interaction with your engineer either
8 by radio or walking to the control car?

9 A. Yeah. No, no, no. So leading up -- so that's the
10 reason I was getting into that. That's -- I don't walk up to the
11 engine compartment or control cabin at that point. I walk north,
12 but my assistant conductor walks south and she would normally put
13 herself in close proximity to being in that control cab so that
14 she would be up there by 125th Street.

15 Q. Okay.

16 A. Yeah. Or at least -- she has to be there by 59th
17 street, but usually when I give instruction I say please just make
18 sure you're up on the head end by 125th street so they're already
19 in position in advance of when they need to be there. I've worked
20 with this assistant conductor many times and she already knows our
21 MO so I do not have to instruct her on that every time. She
22 knows.

23 Q. Is Maria your -- the regular assistant conductor on the
24 job?

25 A. Maria is my regular assistant conductor, yes.

1 Q. Okay. And is Chris a regular assistant conductor on the
2 job?

3 A. Our jobs just recently changed. There used to be
4 another gentleman by the name of Charlie Hermann (ph.). And I
5 don't know if you're familiar with our whole pick process. Well,
6 a couple times a year everything gets thrown up and in order of
7 seniority we select our jobs. That just recently happened. I
8 used to have a gentleman named Charlie Hermann. Since the pick,
9 he was off the job and Chris Kelly was on -- now on his job. So
10 Chris has just been with us since the pick.

11 Q. Which took place? When was that pick -- take place?

12 A. Oh, gosh.

13 MR. FERRARA: November 17th.

14 MR. HERMANN: The 17th, right?

15 MR. FERRARA: Rich Ferrara. November 17th it took
16 effect.

17 BY MR. PARKIN:

18 Q. About 2 weeks ago, roughly. Now leaving Poughkeepsie,
19 it was the engineer, Mr. Rockefeller, yourself and the AC, Maria
20 Herbert?

21 A. Correct.

22 Q. And then the second AC, Chris Kylie [sic]?

23 A. Chris Kelly.

24 Q. Chris Kelly.

25 A. Um-hum.

1 Q. Was picked up -- where did he board the train?

2 A. At Croton-Harmon. His job has him board at Croton-
3 Harmon.

4 Q. Okay. And once Chris got on, did you do any type of job
5 briefing or interaction then?

6 A. No. No. And actually under my direction I told Chris,
7 I think this is actually just the second week or so that I've been
8 with him. By the time that assistant conductor boards at
9 Croton-Harmon, we don't need them anymore because everything's
10 already been seat-checked. Maria and I are just going to do one
11 more sweep or one sweep in each direction and we're done, so we
12 don't really need a third person for revenue.

13 So the first day that Chris got on the train he was
14 gung-ho and he was out there doing revenue and I said don't bother
15 with that. I said it's already done. That's the normal routine.
16 I said, you can just go sit in the deadhead and get yourself ready
17 for your next train, which he does with me. He does the 8:20
18 local up on Sunday, as well. And I said, but beings you don't
19 have to do the last two station stops, you can get the handbrake
20 down in New York so Maria doesn't have to do it. So that's the
21 agreement we have because he's not really needed for revenue.

22 So, yeah, so he got on and, no, I didn't really go over
23 any operational instructions with him because it's not really
24 relevant, quite honestly.

25 Q. But he certainly came in handy that day, though, right?

1 A. And he was also very grateful that I told him he doesn't
2 have to work the train, he could sit in the back.

3 Q. Good point. Yeah, good point.

4 So in the deadhead car that you were sitting in, the
5 sixth car of the train --

6 A. Six from the south end, correct.

7 Q. -- who else was in that car with you?

8 A. After Croton-Harmon, it was Chris Kelly and I -- there
9 was -- like I say, anywhere from four to six. You know, I'm not
10 looking for them. Some people are lying down so I'm not examining
11 the car. I would say, a guess on the four to six employees, but
12 what departments they work I really have no idea. I just know
13 that when they walk on they'll just show me their ID pass and walk
14 by just to verify that they're allowed to be in that car.

15 Q. Okay. So none of those employees you recognized or
16 knew?

17 A. They're in various departments and unless we have a
18 reason to interact with them --

19 Q. Okay.

20 A. -- on an operational level, a lot of times you don't
21 know a lot of people.

22 Q. Did any of those employees -- were any of them injured?

23 A. Yes, there was. I found this out afterwards, because
24 when the train had come to a stop one of the employees in the
25 deadhead, and it wasn't Chris, somebody else had come up to me and

1 asked me if I was all right and I said, just give me a few moments
2 to gather myself. I was on my hands -- I don't know how I wound
3 up on my hands and knees. And I said, but I'll be all right, I
4 believe. And then he went back and it might have been to assist
5 the other person. Because I come to find out later, when all said
6 and done and I wanted to inspect our other five cars that were on
7 the ground, when I had come back they were actually walking --
8 they had somebody stretchered out of the deadhead walking them
9 toward the emergency staging area and I asked somebody is he all
10 right; what happened? And they said he had a laceration. Where,
11 how deep, the nature of any other injuries, I'm not really sure.

12 Q. Okay. The reason I'm asking you those questions is at
13 some point we would, you know, like to interview some of those
14 employees if we were able to identify who they were.

15 A. Yeah.

16 Q. And if you could help us, you know, off record with
17 that --

18 A. I would love to, but I honestly I don't think I could
19 identify any one of them.

20 Q. Okay.

21 A. Okay.

22 Q. When I was out at the site inspecting the train
23 yesterday, a few of the cars had a lot of ballast in the cars from
24 the train accident.

25 A. Yes, they did.

1 Q. Were you in one of those cars that had the ballast or
2 was that --

3 A. I believe --

4 Q. -- something that was ahead of you?

5 A. -- I believe the sixth car did have some ballast in it.

6 Q. Yeah.

7 A. I'm fairly certain the fifth car did and I think just
8 about every other car that I noticed had ballast in it. I
9 unfortunately could not, with the time frame of the incident to
10 the time that the emergency responders arrived on the scene and
11 took control of the scene, I couldn't get through those five cars.

12 The one or two head cars, especially the one car that
13 was down near the river, it was actually behind a line of like
14 bramble, trees and brush which the fire department had to cut
15 through to get people out. So I really couldn't even access those
16 cars and so I just essentially, like I said, we had some -- we
17 were overwhelmed. I mean, I just had two people and all this, you
18 know, carnage. So when we saw that somebody was being evacuated
19 and there was people alive, thank God, in that one car and that
20 woman was helping them, that's where we devoted our efforts to try
21 to see how many people we can get out. Essentially, just grabbed
22 the easiest thing first to try to get as many people out as you
23 can and then work your way down. But with that philosophy in
24 mind, we got about a half a dozen people out and then the
25 emergency responders were on scene. I went and interacted with

1 them about the third rail and any operational concerns that they
2 had that I was able to help them with, and then they essentially
3 had taken -- they said okay, guys -- or they said to me, okay,
4 step back, you know, we'll take it from here. Which, you know --

5 Q. Seeing that, you know, you were an eyewitness to this,
6 were you able -- are you able to determine at all how that ballast
7 was coming into the cars? Was it once the cars separated, they
8 came through the end openings or --

9 A. That would --

10 Q. -- did you see any other way that they -- that the stone
11 came through, the ballast?

12 A. The car or two that I saw that had ballast in there, I
13 was under the impression that it came in through the end doors.

14 Q. Okay.

15 A. But from my understanding there were people ejected from
16 the train, so I'm sure that windows had also come out and I'm sure
17 that could have been another avenue to get ballast inside the
18 cars.

19 Q. Okay.

20 A. I didn't witness that myself, but I'm just -- you know,
21 but I'm sure you could surmise the same thing, wherever there's an
22 opening there's a chance for debris to get in there.

23 Q. A couple of quick questions.

24 A. Sure. Take your time.

25 Q. Leaving Poughkeepsie did you have any interaction with

1 the engineer, either by radio or you walking up to the control
2 car?

3 A. After leaving Poughkeepsie?

4 Q. Yeah. Once you started out of Poughkeepsie --

5 A. No.

6 Q. By radio, you didn't communicate with him?

7 A. I don't believe so. I don't believe so. Yeah.

8 Q. Okay. Did either one of your ACs, that you know of, go
9 up to the head end at all at any time?

10 A. Well, when I stop at Poughkeepsie I only have the one.
11 I have Maria Herbert. Usually she stows her gear up in the
12 engineer control cab --

13 Q. Okay.

14 A. -- so it's secured. So I'm sure that she had went up
15 there to stow her gear and get herself ready for revenue service
16 and -- yeah, so -- yeah, I guess Maria would be up there. That
17 was her usual MO, so I'm sure that's what she did on Sunday
18 morning, too.

19 Q. Do you happen to know if she might have been in the head
20 end when the derailment occurred?

21 A. I would have no idea.

22 Q. Okay. So you don't really know the --

23 A. I have no idea.

24 Q. -- position where she was?

25 A. Yeah.

1 Q. Okay. At any time during your trip did you take any
2 exceptions to train handling, braking or the performance of the
3 equipment, how the equipment was handling?

4 A. I think we already asked that, but no. None at all. No
5 exceptions whatsoever.

6 Q. Okay. That's all I have then. Thank you.

7 A. All righty.

8 MR. BUCHER: Dave Bucher again.

9 BY MR. BUCHER:

10 Q. I have just a couple and then we'll go around one more
11 time.

12 A. Sure.

13 Q. Okay, great. I'd just like to follow up, just briefly,
14 on the metallic sound that you thought you heard --

15 A. Okay.

16 Q. -- just immediately before the accident.

17 A. Um-hum.

18 Q. Did you feel it as well as hear it?

19 A. No. It was just -- it was a sound a little aberrant
20 over the normal running gear chatter that you would hear, but --
21 and I said it was just like a fleeting glimpse in my ear, for lack
22 of a better definition. It just -- it didn't quite sound like it
23 normally would, but I said it was only about 2 seconds and then
24 the next thing I know my car bolted and I was gone.

25 Q. Okay. Thank you.

1 A. Okay.

2 Q. And lastly, do you know when Mr. Rockefeller took his
3 current position as engineer on this crew? I mean, how long has
4 he been an engineer on this train?

5 A. Since the change of time, which was November 17th, as we
6 discussed.

7 Q. November 17th? Okay.

8 A. Yeah.

9 Q. So he's been on this crew since November 17th as a
10 regular engineer?

11 A. As -- yeah, on this particular job. I mean --

12 Q. Right. Okay. Thank you.

13 A. Um-hum.

14 MR. BUCHER: That's all I have right now.

15 MR. BOTTALICO: Yeah, I have a few -- Anthony Bottalico,
16 General Chairman, ACRE 1.

17 BY MR. BOTTALICO:

18 Q. Mike, I have a few questions for you --

19 A. Sure.

20 Q. -- if you could bear with me?

21 A. Yep. Take your time.

22 Q. This is not a redundant question. This goes back to the
23 2 weeks since you've been on the job with Engineer William
24 Rockefeller.

25 A. Um-hum.

1 Q. Can you tell me or tell the panel here if you took any
2 exceptions of handling of your train, your assigned trains since
3 you've been working with him?

4 A. No. And actually, I've not only given compliments to
5 other crews of his performance, but also people have also
6 reflected that same impression of him back to me that he's a very
7 good engineer. And the way we determine that, just to elaborate a
8 little bit as far as a conductor, my position on this. He's very
9 smooth in his train handling, so he's not very hard on the brakes,
10 not very hard on the acceleration, and it means a lot when you're
11 standing all day on your feet. And up to this point in time, he's
12 never misspotted any platform at all, on the property at all.
13 I've never -- I mean, I always double check, but he's never blown
14 a platform, pulled too long, too short.

15 Q. Thanks, Mike.

16 A. Okay.

17 Q. Did you take any exceptions with the performance of any
18 of your crew members since you've been working with them at least
19 since November 17th?

20 A. On 8808?

21 Q. Any of your trains. That (indiscernible) --

22 A. Not, not really. I mean, we really have a very good
23 bunch of employees and I really -- I don't have any criticism of
24 any of them, actually, that I work with.

25 Q. I just have this one other question. It might sound

1 redundant to you --

2 A. That's fine.

3 Q. -- but I apologize if it does --

4 A. No, that's all right.

5 Q -- and to the panel here. But since working with
6 Engineer Rockefeller, have you ever had to report train handling
7 or a missed station stop, for that matter, specifically a missed
8 station stop?

9 A. No.

10 Q. One other -- a few other questions. I apologize.

11 A. That's okay. Take your time.

12 Q. Did a railroad official or the police take your cell
13 phone into custody or inspect it after the accident?

14 A. No.

15 Q. And, obviously, this has been a difficult year for
16 Metro-North. Do you know how many schedule changes the railroad
17 has had to endure in the past 7 months?

18 A. Too many. Specifically, no, but if I was to guess I
19 think there were a couple of -- it's really hard to say, Tony, as
20 you would know, because I think that they made changes on perhaps
21 certain divisions but it doesn't really affect me so I wouldn't
22 make a mental inventory of that. I think between our scheduled
23 picks, which is like twice a year, I think they made maybe one
24 tweak or adjustment to my job, if memory serves me, and they
25 actually advanced a couple of the departure times by a few

1 minutes.

2 Q. Have you had a lot of different engineers on your
3 assignment since you've been on it or have you been pretty steady?

4 A. I've had quite a few. I've had quite a few.

5 Q. And that's over the course of the last year, the last
6 7 months?

7 A. I would say over the course of the last year. I've been
8 back in Poughkeepsie, I think, December 7th or December 8th of
9 2012 is when I got back to Poughkeepsie and I've been there ever
10 since. I have probably had five engineers, thereabouts.

11 Q. Okay.

12 A. And a lot of it's not due to anybody bidding on or off
13 the job. Of course, our whole bumping status, somebody starts up
14 top and they unfortunately displace my engineer and --

15 Q. Schedule change.

16 A. Yes, and that as well.

17 Q. My last question would be, Mike, and I'll pass it on, is
18 how would you describe the performance of the rest of your crew,
19 at least the crew that you worked with at the time of the
20 derailment, and that would be specifically Chris Kelly, I believe;
21 how would you describe his performance?

22 A. I couldn't ask for anybody better. I really couldn't.
23 He was very supportive. He was proactive. I said, you know,
24 let's go see where we can help, let's go take a look, and he was
25 right behind me. He was more concerned about my well-being

1 telling me to sit down or I should relax because he saw that I was
2 having a bit of a rough time, you know, with walking and I guess
3 he saw that, perhaps, I was feeling a little dizzy at some point
4 in time, you know, but -- no, but I couldn't ask for anybody
5 better. And, unfortunately, Maria couldn't help us, because I
6 couldn't have asked for anybody better than Maria under a
7 circumstance like that.

8 Q. Thanks, Mike. I appreciate that.

9 A. Okay.

10 MR. THOMAS: Kirk Thomas, ACRE.

11 BY MR. THOMAS:

12 Q. One question.

13 A. Sure.

14 Q. I'm always -- I'm listening to the reaction after the
15 accident and I want to know was that from your training,
16 instincts, your training from Metro-North?

17 A. What's that? The reaction?

18 Q. The way you reacted. I thought you reacted well after
19 being bumped around, so --

20 A. You know, I believe Metro-North -- yeah, I mean, through
21 their emergency evac training. You know, I like to think that I'm
22 also -- and quite honestly I spent 7 years in operations I think
23 trying to keep a cool demeanor under heavy situations also came
24 into play with trying to remain calm and thinking things through.
25 And I just think it's part of my personality or nature to try to

1 just react on things in a non-panicked, thought-out through
2 process, and which I did the best I possibly could but --

3 Q. Okay.

4 A. So thank you.

5 MR. THOMAS: No more questions.

6 MR. SCIORTINO: Mike Sciortino. No questions at this
7 time.

8 MR. FERRARA: Rich Ferrara, no questions.

9 MR. POTTHAST: John Potthast, no questions.

10 MR. HESS: David Hess, no questions.

11 MR. NARVELL: Rick Narvell, no further questions.

12 MR. PARKIN: Bruce Parkin, FRA.

13 BY MR. PARKIN:

14 Q. Mike, in the last 7 months --

15 A. Um-hum.

16 Q. -- have you received any type of interface, face to face
17 from managers, trainmasters, training department personnel, about,
18 you know, with regard to safety training and just, you know, just
19 try to be more safety conscious, or have they done an effort to go
20 out and interact with the employees --

21 A. Yes.

22 Q. -- you know, and this is with regard to what's taken
23 place over the last 7 months and the amount --

24 A. Okay. Just I think within the last 2 months I had a
25 manager from the compliance department, Mr. Dave Coxon (ph.) or

1 David Coxon. They are required, I believe, to do annual now with
2 our new compliance department. They do annual reviews of
3 employees and I had an opportunity to spend, I believe, about 4
4 hours with him. And what they essentially do is they observe the
5 way you operate your train, you know, making sure that you have
6 all proper documentation, everything else that's necessary to
7 perform your job. He worked a local train up with me to Croton-
8 Harmon and he actually got off into the yard in Croton-Harmon with
9 me and asked me to throw a switch because he wanted to observe me
10 throwing a switch. But that's part and parcel of what they do.
11 And they had taken no exceptions to my performance.

12 Q. And other than that, has anybody -- you know, have you
13 seen any safety material come out, any flyers, any handouts,
14 pamphlets, like I say --

15 A. Periodically Metro-North puts up Red Alert notices,
16 which I think come out from -- oh, I have to think this through.
17 I don't know if that's the safety department.

18 MR. BOTTALICO: Anthony Bottalico, if I may --

19 MR. HERMANN: Yeah.

20 MR. BOTTALICO: -- from ACRE. The railroad has done a
21 -- since the summer -- since the spring, late spring, we've had a
22 safety stand down. I think Mr. Sciortino can speak to that, also.
23 And they've also done a special electronic device safety alert
24 program, where posters are all posted over the property amongst
25 the -- that's including what the compliance officers have been

1 doing with the crews. That's for informational purposes.

2 BY MR. PARKIN:

3 Q. Okay.

4 A. Yeah, but there are notifications, like Tony said, I
5 believe that's the larger --

6 MR. BOTTALICO: Correct.

7 MR. HERMANN: -- billboard posters that they have out
8 there now. Yeah. Yeah, there's usually some sort of literature
9 that's put up there and usually it's an event, if not our
10 railroad, a foreign railroad or something like that, just to help
11 keep us more aware and conscious of what a dangerous industry we
12 work in.

13 BY MR. PARKIN:

14 Q. Is there anything that you can think of, having gone
15 through this, that, you know, now that you've had a couple of days
16 to reflect on it, that you would like to see done differently,
17 that if you could wave that magic wand and say, you know, other
18 than it not happening, but, geez, I wish they did this; I wish we
19 could do this? What would that be?

20 A. Well, the only thing I could think of, honestly, I think
21 you could probably say that it's across the entire company, but
22 specific to the Hudson Line, I believe that a lot of these trains
23 are continually understaffed. Many times we have 7-car trains,
24 700 passengers, we have a conductor and one assistant. And God
25 forbid we had a derailment of this magnitude with 700 passengers

1 on and I only had one assistant and that one assistant was now
2 incapacitated, now it's me and 700 potentially injured passengers.
3 So I think they should really pump up the staffing, particularly
4 on the Hudson Line, and take a look and see if they can do that
5 just because, God forbid, something happens, you ought to have an
6 extra body or you're left with a body to help you.

7 Q. Michael, how do you feel that the equipment held up
8 under those conditions and what it went through?

9 A. Cleaned my clock. I guess relatively well. I mean, I
10 just -- I'm not an engineer. I mean, you got the G forces. I
11 mean, if you look at a situation like this where we're actually
12 running south, I don't know how much that Genesis engine weighs
13 but, I mean, you consider that momentum of that engine coming in
14 at any speed and plowing behind all those coaches. I mean, it
15 looked like the coaches actually held up to a good standard and a
16 lot of punishment. Unfortunately, you know, the outcome wasn't
17 the best for a lot of people, but the equipment seemed to keep --
18 somewhat keep its integrity, you know. Nothing was mangled or
19 twisted, at least from my observation, you know.

20 Q. Okay. Not too many people experience that and get to
21 tell us what the actual experience was and how the equipment held
22 up and what you went through. So I thank you and I think you did
23 a very good job explaining everything very thoroughly. Thanks,
24 Mike.

25 A. Thank you. Thank you.

1 MR. BUCHER: Okay. That'll conclude the interview.

2 We'll go off the record.

3 (Whereupon, the interview was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: METRO-NORTH RAILROAD TRAIN
 DERAILMENT DECEMBER 1, 2013
 BRONX, NEW YORK
 Interview of Michael Hermann

DOCKET NUMBER: DCA-14-MR-002

PLACE: White Plains, New York

DATE: December 2, 2013

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.

Beverly A. Lano
Transcriber